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7 UNITED STATES BANKRUPTCY COURT

8 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

9 In Re:

10 LEGAL RECOVERY, LLC

11 Debtor,

Case No.: 24-30074
Chapter 11

**CREDITOR CHARLES LI'S EX
PARTE APPLICATION FOR AN
ORDER PURSUANT TO
BANKRUPTCY RULE 2004
AUTHORIZING EXAMINATION
AND PRODUCTION OF
DOCUMENTS BY DEMAS YAN,
THE MANAGER OF DEBTOR
LEGAL RECOVERY, LLC**

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20 **TO THE CLERK OF THE UNITED STATES BANKRUPTCY COURT:**

21 Creditor Charles Li submits this ex parte application (“*Application*”) in
22 the above-captioned Chapter 11 case of Legal Recovery, LLC (the “*Debtor*”), for an
23 order authorizing an oral examination of, and the production of documents by Demas
24 Yan, the manager of Debtor, pursuant to Rule 2004 of the Federal Rules of Bankruptcy
25 Procedure and Bankruptcy Local Rule 2004-1 (the “*2004 Examination*”). A 2004
26 Examination of Mr. Yan is necessary to fully investigate potential assets of the estate.
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1 **I. BACKGROUND**

2 On February 6, 2024 (the “Petition Date”), the Debtor filed a voluntary
3 petition for relief under Chapter 11 of the Bankruptcy Code. On February 20, 2024, the
4 Debtor filed an amended voluntary petition, electing to proceed under Subchapter V of
5 Chapter 11.

6 The petition and amended petition were both signed by Demas Yan, as
7 Debtor’s “manager.”

8 The first meeting of creditors required under section 341(a) of the
9 Bankruptcy Code (the “341 Meeting”) was set for March 4, 2024. Debtor’s counsel did
10 not appear, and the meeting was continued to March 19, 2024. On March 19, 2024,
11 Debtor appeared with counsel, and the meeting was continued to April 9, 2024. On April
12 9, 2024, Debtor appeared with counsel, and the meeting was continued to April 30, 2024.
13 On April 30, 2024, Debtor’s counsel did not appear, and the meeting was continued to
14 May 14, 2024. On May 14, 2024, the meeting was held and concluded.

15 During the 341 Meeting, Mr. Yan testified on behalf of Debtor. Of
16 particular interest, Mr. Yan testified that Debtor has no business activity other than its
17 lawsuits against Martin Eng and related parties, that it has no assets other than the Eng
18 property it successfully executed upon, and that it filed no tax returns because of such
19 lack of activity. However, Creditor Li has separate evidence and indications that Debtor
20 has engaged in other economic activities, conducted potentially taxable income and
21 expense transactions, is related to other similarly-named entities, and acquired other
22 assets. In particular, Creditor has found evidence of escrows opened for other real
23 property.

24 Mr. Yan lives and works in the Bay Area, within 100 miles of the office
25 where Creditor Charles Li proposes to conduct the examination.

1 Creditor Charles Li requests a 2004 Examination of Mr. Yan, including
2 the production of relevant documents in his possession, custody or control, so that he can
3 investigate potential assets of the Debtor.

4 A proposed order authorizing a 2004 Examination of Mr. Yan is attached
5 hereto as Exhibit A.

6 **II. LEGAL DISCUSSION**

7 **A. Creditor Charles Li Is Entitled to a 2004 Examination Pursuant to** 8 **Bankruptcy Rule 2004 and Applicable Local Rules.**

9 Bankruptcy Rule 2004 provides that “[o]n motion of any party in interest,
10 the court may order the examination of any entity.” Fed. R. Bankr. P. 2004(a). The term
11 entity includes persons. Bankr. Code § 101(15). Examinations under Bankruptcy Rule
12 2004 include within their scope any matter related to assets, liabilities, or the financial
13 condition of the debtor; or any matter which may affect the administration of a debtor’s
14 estate. See Fed. R. Bankr. P. 2004(b). A person may be compelled to attend an
15 examination, including outside the district where the case is pending, by issuance of a
16 subpoena and as provided in Bankruptcy Rule 9016. Fed. R. Bankr. P. 2004(c).

17 Local Bankruptcy Rule 2004-1(a) provides: “The Clerk may issue on
18 behalf of the Court, ex parte and without notice, orders granting applications for
19 examination of an entity pursuant to Bankruptcy Rule 2004(a).”

20 **B. The Court Should Broadly Authorize a 2004 Examination of Demas** 21 **Yan, Debtor’s Manager, to Investigate the Debtor’s Potential Assets.**

22 The purpose of a Bankruptcy Rule 2004 examination is “to allow inquiry
23 into the debtor’s acts, conduct or financial affairs so as to discover the existence and
24 location of assets of the estate.” *In re Dinubilo*, 177 B.R. 932, 940 (E.D. Cal. 1993). *See*
25 *also In re N. Plaza LLC*, 395 B.R. 113, 122 n. 9 (S.D. Cal. 2008) (purpose of Bankruptcy
26 Rule 2004 examination is “discovering assets and unearthing frauds”) (internal citations
27 omitted); *In re Fearn*, 96 B.R. 135, 138 (Bankr. S.D. Ohio 1989) (rule’s primary purpose
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1 is to ascertain “the extent and location of the estate’s assets [and] examination is not
2 limited to the debtor or his agents, but may properly extend to creditors and third parties
3 who have had dealings with the debtor.”) (internal citations omitted). The scope of an
4 examination permitted under Bankruptcy Rule 2004 is “unfettered and broad.” *In re*
5 *Dinubilo*, 177 B.R. at 939. *See also In re W&S Investments, Inc.* 985 F.2d 577 (9th Cir.
6 1993) (“The scope of inquiry permitted under a Rule 2004 examination is generally very
7 broad and can legitimately be in the nature of a ‘fishing expedition.’” (internal citations
8 omitted).

9 This broad inquiry extends to third parties as well: “Because the purpose
10 of the Rule 2004 investigation is to aid in the discovery of assets, any third party who can
11 be shown to have a relationship with the debtor can be made subject to a Rule 2004
12 investigation.” *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 432 (S.D.N.Y. 1993); *see also*
13 *In re Mittco, Inc.*, 44 B.R. 35, 36 (Bankr. D. Wis. 1984) (“When there is a showing that
14 the purpose of the examination is to enable a party to probe into matters which may lead
15 to the discovery of assets by examining not only the debtor, but also other witnesses, such
16 inquiry is allowed.”). This is because “[t]he clear intent of Rule 2004 . . . is to give parties
17 in interest an opportunity to examine individuals having knowledge of the financial
18 affairs of the debtor in order to preserve the rights of creditors.” *In re GHR Companies,*
19 *Inc.*, 41 B.R. 655, 660 (Bankr. D. Mass. 1984).

20 In this case, Creditor Charles Li believes that when Debtor’s manager,
21 Demas Yan, is questioned about specific documents and transactions, he would not be
22 able to claim lack of memory of knowledge, as he did prolifically during the meeting of
23 creditors. Yan asserted at the meeting that Debtor has not filed any tax returns because it
24 had no economic activities or assets. Creditor Li is entitled to ask him about specific
25 transactions and assets that have come up.

26 These issues are separate and apart from those raised in Charles Li’s
27 adversary proceeding against Debtor seeking judgment that Debtor’s debt to Charles Li is

1 non-dischargeable – a proceeding that this Court has ordered dismissed, with 60-days
2 leave to amend.

3 Accordingly, creditor Charles Li seeks a 2004 Examination of Debtor,
4 consisting of the production of the documents described in the attachments to the
5 proposed orders and oral examination in San Francisco, California, on July 19, 2024, at
6 10:00 a.m., or on such other dates and times as may be agreed.

7 **WHEREFORE**, Creditor Charles Li respectfully requests that the Court:

- 8 1. Grant this Application;
- 9 2. Enter the attached order (Exhibit A) authorizing an oral
10 examination of Demas Yan Debtor on July 19, 2024 at 10:00 a.m. and requiring Mr. Yan
11 to produce the documents sought before close of business on July 15, 2024, with both the
12 oral examination and the production to take place at Jan Brown & Associates, Court
13 Reporters, 701 Battery Street, San Francisco, California; and
- 14 3. Order such other and further relief as may be appropriate.

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16 DATED: June 21, 2024

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/s/ Duy Thai

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Duy Thai

Attorney for Charles Li

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